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16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 INTERNATIONAL COUNCIL FOR
19 VETERINARY ASSESSMENT,

20 *Plaintiff,*

21 v.

22 ANIVIVE LIFESCIENCES INC.,
23 DAVID BRUYETTE, CODY
24 ARBUCKLE, and DYLAN BALSZ,

25 *Defendants.*

Case No. 2:24-CV-02866

VERIFIED COMPLAINT FOR:

**1) BREACH OF CONTRACT;
AND**

**2) FEDERAL COPYRIGHT
INFRINGEMENT**

JURY DEMANDED

1 Plaintiff International Council for Veterinary Assessment by and through its
2 counsel, Dorsey & Whitney LLP, alleges as follows:

3 **I. INTRODUCTION & SUMMARY OF RELIEF REQUESTED**

4 1. This case is about an intentional breach of contract and willful and
5 deliberate acts of copyright infringement perpetrated by individuals and their
6 sophisticated company, all of whom should have known better.

7 2. As detailed herein, Plaintiff International Council for Veterinary
8 Assessment (“Plaintiff” or “the ICVA”) has developed highly-acclaimed testing
9 resources and related content that are indispensable to the veterinary profession. The
10 ICVA has invested millions of dollars’ worth of time and effort developing its content
11 and protecting it with strict access controls, contractual limitations, and federal
12 copyright registrations.

13 3. Without any permission or authority, Defendant Bruyette paid to access
14 the ICVA’s secure content under false pretenses. He copied at least 164 test
15 questions and answers, again with no authority or consent from the ICVA. One or
16 more of the Defendants then proceeded to: (a) input or upload those test questions
17 and answers into several artificial intelligence (“AI”) large language models
18 (“LLMs”); and then (b) falsely claim in a published journal article that AI can take
19 and “pass” the ICVA’s veterinarian licensing exam.

20 4. Defendants’ extreme and volitional conduct violates state and federal
21 laws. The ICVA seeks all available legal and equitable remedies, including but not
22 limited to, actual damages, statutory damages, attorneys’ fees and costs, and
23 preliminary and then permanent injunctive relief.

24 **II. PARTIES**

25 5. The ICVA is a not-for-profit corporation organized under the laws of
26 the state of Illinois that is described in Section 501(c)(3) of the Internal Revenue
27 Code of 1986, as amended, and has a permanent mailing address of P.O. Box 1356,
28 Bismarck, North Dakota, 58502.

6. Defendant Anivive Lifesciences, Inc. (“Anivive”) is a for-profit corporation organized under the laws of the state of Delaware and registered to conduct business in California. It has a principal place of business at 3777 Worsham Ave., Suite 200, Long Beach, California 90808, and its registered agent is located at 2710 Gateway Oaks Drive, Sacramento, California 95833.

7. Defendant David Bruyette is an individual and is the Chief Medical Officer at Anivive. On information and belief, Defendant Bruyette resides in Bell Canyon, California, and works from Defendant Anivive’s offices located in Long Beach, California.

8. Defendant Cody Arbuckle is an individual and is the Chief Technology Officer at Anivive. On information and belief, Defendant Arbuckle resides in Lomita, California, and works from Defendant Anivive’s offices located in Long Beach, California.

9. Defendant Dylan Balsz is an individual and is the Founder and the Chief Executive Officer at Anivive. On information and belief, Defendant Balsz resides in Irvine, California, and works from Defendant Anivive’s offices located in Long Beach, California.

III. JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331 and § 1338 because this dispute concerns the rights of parties under the Copyright Act, 17 U.S.C. § 101 *et seq.*

11. This Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity between Plaintiff and Defendants and the amount in controversy exceeds \$75,000. Plaintiff is an Illinois not-for-profit corporation with a permanent mailing address in North Dakota, while Defendant Anivive is a Delaware corporation with a principal place of business in California, and Defendants Bruyette, Arbuckle, and Balsz reside in California.

12. This Court has supplemental jurisdiction over the state law claim under

1 28 U.S.C. § 1367 because the state law claim asserted herein is related to the same
 2 controversy, specifically Defendants' access, copying, and unauthorized use of
 3 materials obtained from the ICVA, which also give rise to the federal cause of action.

4 13. This Court has personal jurisdiction over Defendants because, upon
 5 information and belief, Defendants regularly: (a) conduct, transact, and/or solicit
 6 business in California and in this judicial district; (b) derive substantial revenue from
 7 their business transactions in California and in this judicial district; and/or otherwise
 8 (c) avail themselves of the privileges and protections of the State of California such
 9 that this Court's assertion of jurisdiction does not offend traditional notions of fair
 10 play and due process. For example, as set forth in more detail below, Defendants
 11 Anivive and/or its officers: (a) accessed and copied content from Plaintiff from this
 12 judicial district; (b) on information and belief, have stored copies of Plaintiff's
 13 materials on computers or servers located in this district, likely in systems owned and
 14 managed by Defendant Anivive; and (c) shared that content with their co-Defendants
 15 and/or individuals from the University of California-Irvine ("UC Irvine") situated in
 16 this judicial district.

17 14. Venue is proper in this judicial district pursuant to 28 U.S.C.
 18 § 1391(b)(2) and § 1400 because, as described herein, Defendants conduct, transact,
 19 and/or solicit business in this judicial district and the actions that give rise to the
 20 allegations of this Complaint, namely Defendants' accessing, copying, and use of
 21 Plaintiff's materials, occur in this district.

22 **IV. THE ICVA'S VETERINARY EDUCATIONAL TESTS AND** 23 **ASSESSMENTS**

24 **A. The "NAVLE"**

25 15. Formed in 1994, the ICVA is a world leader in providing educational
 26 tests and assessments for prospective veterinarians. The ICVA provides its various
 27 assessments with the end goals of protecting the public and ensuring optimal animal
 28 health and welfare.

1 16. One such examination developed by the ICVA is the North American
2 Veterinary Licensing Examination (the “NAVLE,” pronounced “nav-lee”). Passing
3 the NAVLE is a requirement for licensure to practice veterinary medicine in all
4 licensing jurisdictions in the U.S. and Canada. The ICVA works closely with the
5 National Board of Medical Examiners (“NBME”) with respect to the administration
6 of the NAVLE. The NBME is responsible for the exam’s delivery, scoring, and score
7 reports, while the ICVA provides subject matter experts for content development and
8 owns the examination.

9 17. Taking the NAVLE is a rite of passage for prospective veterinarians and
10 the culmination of years of education. To qualify for the NAVLE, individuals have
11 to be either: (a) enrolled in, or a graduate of, a college of veterinary medicine or a
12 veterinary school accredited by the American Veterinary Medical Association
13 Council on Education; or (b) have already taken and passed the “Step 3” Examination
14 offered through an educational equivalency program such as the Educational
15 Commission for Foreign Veterinary Graduates or Program for the Assessment of
16 Veterinary Education Equivalency.

17 18. The ICVA administers the NAVLE twice per year, in the fall and in the
18 spring, through computer testing centers operated by Prometric.

19 19. The NAVLE consists of 360 multiple-choice questions designed to test
20 clinical and professional competencies required of veterinarians and test diagnoses
21 for various species a veterinarian may encounter in practice.

22 20. Approximately 15-20% of the NAVLE questions include graphic or
23 pictorial information such as photographs, radiographs, drawings, and charts. The
24 remainder of the questions are text-based.

25 21. Over the years, the ICVA has expended millions of dollars’ worth of
26 time and resources in researching, analyzing, and drafting the NAVLE questions and
27 answers. The NAVLE questions and answers represent the collective judgment and
28 expertise of numerous practicing veterinarians and educators, all of whom are

1 dedicated to ensuring the competencies and proficiencies of prospective
2 practitioners.

3 **B. The NAVLE Self-Assessment Form 2**

4 22. The ICVA also offers “NAVLE Self-Assessments.” These Self-
5 Assessments are online practice examinations containing retired questions from
6 previous NAVLE examinations. Over the years, thousands of prospective
7 veterinarians have turned to the ICVA and the NAVLE Self-Assessments as an
8 indispensable, trusted resource during their preparation process for the NAVLE
9 exam.

10 23. One of the current Self-Assessment versions offered by the ICVA since
11 2020 is the “NAVLE Self-Assessment Form 2.”

12 24. The NAVLE Self-Assessment Form 2 is comprised of 200 multiple-
13 choice questions, all of which are actual, “retired” questions from prior versions of
14 the NAVLE. The NAVLE Self-Assessment Form 2 is the only form of the NAVLE
15 Self-Assessments that provides expanded feedback to include the answers to
16 incorrectly answered questions.

17 25. The NAVLE Self-Assessment Form 2 is intended for use by aspiring
18 veterinarians to help them identify their strengths and weaknesses as they prepare for
19 the NAVLE, and to familiarize them with the format and content of the NAVLE.

20 26. The ICVA does not permit users to download or print the NAVLE Self-
21 Assessment Form 2, or portions thereof. Likewise, the ICVA does not offer printed
22 or hard-copy versions of the NAVLE Self-Assessment Form 2.

23 27. Instead, NAVLE Self-Assessments are web-based and *only* available
24 through the ICVA’s website, <https://csas.nbme.org/navlesa/Home.do>. Users can
25 obtain free access to two sample NAVLE Self-Assessments (one English and one
26 French, ten items each), can purchase a full version of the NAVLE Self-Assessment
27 (one in English and one in French), or purchase the full version with expanded
28

1 feedback (one in English and one in French). The expanded feedback form allows
2 the examinee to review the questions **and** answers to incorrectly answered questions.

3 28. When taking either the free sample of the NAVLE Self-Assessment or
4 the full version of the NAVLE Self-Assessment Form 2, the website interface
5 displays one question at a time to a test taker, who must answer or skip the question
6 to view the next question.

7 **C. Plaintiff Zealously Protects its NAVLE Works of Authorship**

8 29. To protect the ICVA's considerable investment in the NAVLE and the
9 NAVLE Self-Assessments, including the NAVLE Self-Assessment Form 2, the
10 ICVA has developed Terms, Conditions, and Disclaimers ("the ICVA's Terms"),
11 which participants must agree to when accessing or taking either the free NAVLE
12 Self-Assessment Sample or the full NAVLE Self-Assessment Form 2.

13 30. The ICVA's Terms provide, in pertinent part: "The materials presented
14 on the self-assessments are owned and copyrighted by the ICVA. Any unauthorized
15 reproduction of these materials, by any means, including but not limited to, storage
16 in a retrieval system, transmission, printing, memorization, or distribution is strictly
17 prohibited." A true and correct copy of the ICVA's Terms is attached hereto as
18 **Exhibit A**.

19 31. The ICVA's Terms are displayed to users before they can proceed with
20 accessing or taking the NAVLE Self-Assessment Form 2. And by participating in a
21 NAVLE Self-Assessment, participants acknowledge that they have read, understood,
22 and agree to be bound by the ICVA's Terms. See **Exhibit A**.

23 32. The ICVA also diligently protects its investment and systematically
24 secures U.S. copyright registrations for the NAVLE and the NAVLE Self-
25 Assessments. The NAVLE registrations are obtained by the ICVA using the process
26 detailed in Copyright Office Circular 64 entitled, "Copyright Registration of Secure
27 Tests and Test Items" ("Circular 64"). A true and correct copy of Circular 64 is
28 attached hereto as **Exhibit B**. Pursuant to this process, a special examination of each

1 application is made by the Office to ensure the submitted work qualifies as a “secured
2 test.” The required deposit copy is then provided to the Office in *redacted* form. As
3 the Copyright Office notes in Circular 64, only a “fraction” of tests qualify for these
4 special procedures.

5 33. Over the last six years alone, the ICVA has obtained no fewer than 23
6 copyright registrations relating to its works of authorship, including several relating
7 to various versions of the NAVLE and the NAVLE Self-Assessments. Attached
8 hereto as **Exhibit C** is a true and correct copy of a list of copyright registrations
9 owned by the ICVA. The Certificates of Registration referenced therein are *prima*
10 *facie* evidence of the validity of the ICVA’s copyrights in the NAVLE and the
11 NAVLE Self-Assessments.

12 34. The ICVA holds copyright registrations for several NAVLE Self-
13 Assessments, including, at least the NAVLE Self-Assessment Form 1, the NAVLE
14 Self-Assessment Form 2, and the NAVLE Self-Assessment Form 3. See **Exhibit C**
15 at 2-3.

16 35. One such registration is Copyright Registration No. TX0008913420,
17 entitled, *International Council for Veterinary Assessment NAVLE Self-Assessment*
18 *Form 2*, which was registered on November 13, 2020 (the “NAVLE Self-Assessment
19 Form 2 Registration”). Attached hereto as **Exhibit D** is a true and correct copy of
20 the certificate of registration for the NAVLE Self-Assessment Form 2 Registration.

21 36. The copyright registration is current, valid, and subsisting.

22 **V. DEFENDANTS’ INTENTIONAL AND WILFUL MISCONDUCT**

23 **A. Defendants’ Published Article is the Product of Intentional,** 24 **Willful, and Indiscriminate Copying of the ICVA’s Works of** 25 **Authorship**

26 37. Defendants Bruyette, Arbuckle, and Balsz (the “Executive
27 Defendants”), along with three individuals from UC Irvine, recently authored an
28 article entitled, *AI and Veterinary Medicine: Performance of Large Language*

1 *Models on the North American Licensing Examination* (“the Article”), a copy of
 2 which is attached hereto as **Exhibit E**.

3 38. On information and belief, the Article was published in connection with
 4 the Tenth International Conference on Social Networks Analysis, Management and
 5 Security (“SNAM-2023”).

6 39. The Article purports to show that AI models, namely well-known
 7 LLMs, are able to answer the majority of NAVLE Self-Assessment questions
 8 correctly and one LLM in particular, Chat GPT-4, would purportedly be able to
 9 “pass” the NAVLE exam. *See* **Exhibit E**.

10 40. The Article makes clear that one or more of the Defendants
 11 impermissibly copied the NAVLE Self-Assessment Form 2 from the ICVA’s
 12 website. Specifically, at least 164 questions and answers from the NAVLE Self-
 13 Assessment Form 2 were copied by Defendants and then fed into these third party
 14 LLMs. *See id.* at 1.

15 41. The abstract of the Article confirms that one or more of the Executive
 16 Defendants accessed “a 200-question NAVLE self-assessment sourced from ICVA’s
 17 website.”¹ *See id.*

18 42. At no point did the ICVA give any of the Defendants permission to copy
 19 the NAVLE Self-Assessment Form 2, much less give them permission to feed the
 20 NAVLE Self-Assessment Form 2 into any LLMs, and then publish the results of their
 21 “research.”

22 43. After discovering that the integrity and security of the NAVLE Self-
 23 Assessment Form 2 had been severely compromised and the subject of a deeply-
 24 flawed analysis in the Article, the ICVA launched an immediate investigation to
 25 unearth who was responsible.

26
 27
 28 ¹ It is unclear if all 200 questions were illicitly copied, or if the copying was
 confined to the 164 “text-based” questions only.

B. The ICVA Discovered Defendant Bruyette, the CMO of Anivive, Obtained Access to the NAVLE Self-Assessment Form 2 Under False Pretenses and Engaged in Wholesale Copying

44. Upon reviewing its electronic records and files, the ICVA discovered that one of the co-authors of the Article, Defendant Bruyette, purchased access to the full secure NAVLE Self-Assessment Form 2 on approximately June 13, 2023. A true and correct copy of Defendant Bruyette's purchase record is attached hereto as **Exhibit F**.

45. According to Defendant Bruyette's LinkedIn profile, he is the Chief Medical Office ("CMO") at Anivive. A true and correct copy of Defendant Bruyette's LinkedIn profile is attached hereto as **Exhibit G**. As a licensed veterinarian for many decades, Defendant Bruyette had no legitimate need or purpose to access the NAVLE Self-Assessment Form 2. In fact, on information and belief, he accessed it with the intent to engage in widespread, indiscriminate, wholesale copying of the Self-Assessment Form 2. And he certainly made good on that intent.

46. The order number associated with Defendant Bruyette's improper access and purchase is Q753802. See **Exhibit F** at 1.

47. Prior to purchasing access to the NAVLE Self-Assessment Form 2, Defendant Bruyette was presented with the ICVA Terms. See **Exhibit A** at 1.

48. By navigating to the ICVA's website and taking the NAVLE Self-Assessment Form 2, Defendant Bruyette agreed to be bound by the ICVA Terms. See *id.*

49. When a purchaser, like Defendant Bruyette, accesses the NAVLE Self-Assessment Form 2, the first screen displayed by the ICVA's interactive website before beginning the assessment warns that the "examination contains test materials that are owned and copyrighted by the ICVA" and expressly states: "***Any reproduction of these materials or any part of them, through any means, including but not limited to, copying or printing of electronic files, reconstruction through***

1 *memorization and/or dictation, and/or dissemination of these materials or any part*
 2 *of them is strictly prohibited.”* (emphasis added). Attached hereto as **Exhibit H** is
 3 a true and correct copy of the webpage containing these statements that was displayed
 4 to Defendant Bruyette.

5 50. The ICVA’s internal records show that Defendant Bruyette started the
 6 NAVLE Self-Assessment Form 2 on June 14, 2023 and spent less than one hour
 7 speeding through it and “answering” the questions. See **Exhibit F** at 2. This
 8 breakneck pace is highly unusual and inherently suspect because each NAVLE
 9 question is calibrated and designed to take approximately 65 seconds to complete.²
 10 This means that if Defendant Bruyette had been genuinely using the assessment for
 11 its intended purpose as a practice resource in preparation for the NAVLE, it would
 12 have taken him approximately three hours and forty minutes to complete the NAVLE
 13 Self-Assessment Form 2.

14 51. During Defendant Bruyette’s speed session through the Self-
 15 Assessment Form 2, he copied at least 164, if not all 200, of the questions and
 16 answers. See **Exhibit E** at 2 (the Article states Defendants “considered the 164 text-
 17 only questions”). Because the NAVLE Self-Assessment Form 2 cannot be
 18 downloaded or printed, Defendant Bruyette and/or one or more of his confederates,
 19 would have “screen captured” or photographed each screen, for a total of at least 164
 20 volitional, willful, and intentional acts of copying.

21 52. Due to the furious pace of completing the Self-Assessment Form 2 in
 22 under an hour, it appears that Defendant Bruyette, and/or one or more of his co-
 23 copyists: (a) hurriedly copied each question; (b) quickly guessed each answer in
 24 order to reveal if that guess was correct; and then (c) copied each answer and then
 25 generated their own “answer key” as referenced in the Article.

26 _____
 27 ² See Feinberg R.A., Jurich D., Lord J., Case H., and Hawley J., *Examining the*
 28 *Validity of the North American Veterinary Licensing Examination (NAVLE) Time*
Constraints, Journal of Veterinary Medical Education 45(3), 381-87 (Fall 2018).

53. On information and belief, Defendant Bruyette distributed copies of the NAVLE Self-Assessment Form 2 questions and answers to, at least, his co-author Defendants and co-authors from UC Irvine for their collective purpose of: (a) feeding one or more of those illicit copies into three separate LLMs; (b) analyzing the results produced by those LLMs based on the improper copying; and then (c) telling the world writ-large about their “accomplishment” as detailed in the Article.

54. Defendant Bruyette’s intentional copying of questions and answers from the NAVLE Self-Assessment Form 2 is a clear violation of the ICVA’s Terms, including at least the term providing that “[a]ny unauthorized reproduction of these materials, by any means, including but not limited to, storage in a retrieval system, transmission, printing, memorization, or distribution *is strictly prohibited.*” (emphasis added). See **Exhibit A** at 1.

C. Defendant Bruyette Engaged in This Willful and Illicit Copying Within the Course and Scope of His Employment with Anivive and For Its Reputational Benefit

55. On information and belief, Defendant Bruyette carried out his improper conduct within the course and scope of his employment for Anivive, with the specific purpose of burnishing Anivive’s “AI” *bona fides*.

56. For starters, his company’s name and his company email address is emblazoned at the top of the Article. Further, two of Defendant Bruyette’s executive colleagues at Anivive—Defendants Balsz and Arbuckle—are co-authors of the Article. “Anivive Life Sciences” appears directly below their names at the top of the Article, as do their company email addresses. See **Exhibit E** at 1. These facts alone strongly suggest that the illicit copying and improper use of the NAVLE Self-Assessment Form 2 was part of a larger corporate effort carried out by company executives for the benefit of Anivive.

57. According to his LinkedIn profile, Defendant Balsz is the founder and CEO of Anivive. A true and correct copy of his LinkedIn profile is attached hereto

1 as **Exhibit I.**

2 58. Defendant Arbuckle is the Chief Technology Officer at Anivive. A true
3 and correct copy of his LinkedIn profile is attached hereto as **Exhibit J.**

4 59. Further, the subject matter of the Article co-authored by these corporate
5 executives underscores how their “findings” would lend AI “street cred” to Anivive.
6 Anivive asserts that it is heavily involved with various AI initiatives related to
7 veterinary medicine.

8 60. For example, in a recent press release touting that it has joined forces
9 with NFL superstar Ron Gronkowski, Anivive describes itself as “a pet
10 pharmaceutical company at the intersection of biotech, AI, software, and veterinary
11 medicine. Our proprietary software platform accelerates the development of new,
12 affordable treatments for life-threatening diseases in pets.” A true and correct copy
13 of this press release is attached hereto as **Exhibit K.**

14 61. Further, Anivive’s “X” social media account (formerly “Twitter”)
15 asserts that “[w]e combine artificial intelligence, biotech, and veterinary medicine to
16 develop a diverse pipeline of products.” A true and correct copy of Anivive’s X
17 account homepage is attached hereto as **Exhibit L.**

18 62. On information and belief, the thrust and purpose behind the illicit
19 copying of the NAVLE Self-Assessment Form 2 was to make a “splash” with the
20 veterinarian community, all in service to Anivive’s reputation.

21 63. For at least the foregoing reasons, the conduct constituting breach of
22 contract and willful copyright infringement was carried out for the benefit of Anivive.
23 It must now be held to account for the harm and damage its executives and the
24 company inflicted on the ICVA.

25 **D. All of the Co-Authors of the Article Benefitted from and**
26 **Materially Contributed to the Acts of Infringement**

27 64. Just as Anivive stood to benefit from the illicit copying of the NAVLE
28 Self-Assessment Form 2, so did all of the co-authors that participated in and

1 materially contributed to the infringement by researching, drafting, and editing the
2 Article, and failing to stop the ICVA's copyrighted content from being the subject of
3 the published Article.

4 65. On information and belief, all of these individuals are professionals
5 engaged in the veterinarian medicine industry. They all stood to benefit from
6 publication of the Article centered on one of the hottest technology issues in a
7 generation: AI.

8 **E. Defendants Also Violated Multiple Terms of Service of**
9 **Third-Party Technology Companies**

10 66. The conduct set forth above violated the ICVA's rights in multiple,
11 profound ways. But Defendants' conduct also ran roughshod over the terms of
12 service of third-party technology companies.

13 67. On information and belief, the ChatGPT-3 and ChatGPT-4 LLMs are
14 owned by third party OpenAI LP.

15 68. On information and belief, the Bard LLM (now "Gemini") is owned by
16 Google Inc.

17 69. OpenAI's Terms of Use provide, in relevant part, that a user "may not
18 use our Services for any illegal, harmful, or abusive activity. For example, you may
19 not: Use our Service in any way that infringes, misappropriates or violates anyone's
20 rights" and that by using its Services, users "represent and warrant that [they] have
21 all rights, licenses, and permissions needed to provide Input to our Services."
22 Attached hereto as **Exhibit M** is a true and correct copy of OpenAI's Terms of Use.

23 70. Defendants did not own or have a license to make a copy of the NAVLE
24 Self-Assessment Form 2, much less any right to feed an illicit copy or copies into
25 ChatGPT-3 and ChatGPT-4.

26 71. Google's Terms of Service provide, in relevant part, "[i]f you choose to
27 upload or share content, please make sure you have the necessary rights to do so and
28 that the content is lawful" and that by uploading content, a user grant's Google a

1 “worldwide,” “non-exclusive,” and “royalty-free” license to Google, authorizing it
2 to (1) “host, reproduce, distribute, communicate, and use” the content; (2) “publish,
3 publicly perform, or publicly display” the content; (3) “modify and create derivative
4 works based on” the content; and (4) “sublicense these rights to other users [and]
5 contractors.” Attached hereto as **Exhibit N** is a true and correct copy of Google’s
6 Terms of Service.

7 72. Defendants did not own or have a license to make a copy of the NAVLE
8 Self-Assessment Form 2, much less any right to feed an illicit copy or copies into
9 Bard.

10 73. In sum, it appears that Defendants either: (a) neglected to read OpenAI’s
11 Terms of Use and Google’s Terms of Service; or (b) read them and simply tossed
12 them aside as a mere “nuisance” standing between Defendants and their
13 “breakthrough” AI research. Either way, Defendants have inflicted severe and
14 irreparable harm on the ICVA.

15 **VI. HARM TO PLAINTIFF**

16 74. Defendants’ willful and intentional conduct has significantly harmed
17 Plaintiff and may further disrupt its business. Further disruption will cause
18 irreparable harm.

19 75. The ICVA invested a substantial amount of time and resources into
20 creating the NAVLE Self-Assessment Form 2 and protecting that work of authorship.
21 Defendants’ conduct has caused Plaintiff to lose control over its protected work.

22 76. As a result of Defendants’ conduct, the ICVA may have to discard the
23 NAVLE Self-Assessment Form 2 and invest a considerable amount of time, analysis,
24 and resources to create a new self-assessment version.

25 77. It is likely to take many months for the ICVA to develop a replacement
26 NAVLE Self-Assessment, requiring significant time, labor, and resources to prepare
27 a new set of questions and answers that maintain the same quality content that the
28 Self-Assessment Form 2 provides the practice test-taker

78. This not only disrupts the ICVA's business, it is likely to disrupt veterinary students who are studying and preparing for the NAVLE. Students will be left with no self-assessments with expanded feedback tailored to preparing them for the NAVLE while the ICVA is in the process of developing a new self-assessment.

79. Students are likely to turn to resources other than the ICVA, including any copies distributed by Defendants, to prepare for the NAVLE while the ICVA is preparing a new self-assessment, resulting in lost profits to the ICVA, diminishment in its position in the veterinary education marketplace, and harm to its stellar reputation.

80. Defendants' Article also harms the ICVA's reputation as it suggests that the NAVLE Self-Assessment Form 2 or the NAVLE itself is "easy" to pass or can be passed using LLMs.

81. Defendants' Article admittedly does not take into account the unique scoring scale used on the NAVLE that ranges from 200 to 800, nor the weight assigned to each individual question.

82. Further, Plaintiff has been collecting data from the NAVLE Self-Assessment Form 2 to validate and study the performance of test takers who complete the NAVLE Self-Assessment Form 2 and, later, the NAVLE. Plaintiff's four years of analysis is all for naught if it has to abandon the NAVLE Self-Assessment Form 2 and replace it with a new self-assessment.

83. Individuals who read Defendants' Article are likely to be misled as to the content, difficulty, and scoring process for the NAVLE.

VII. CAUSES OF ACTION

First Cause of Action (Defendant Bruyette)

Breach of Contract

84. Plaintiff re-alleges and incorporates all of the allegations set forth in the preceding paragraphs as if fully set forth herein.

1 85. The ICVA's Terms are a valid and enforceable contract.

2 86. The ICVA's Terms are displayed to users before they can proceed with
3 accessing and taking the NAVLE Self-Assessment Form 2 and prohibit "[a]ny
4 unauthorized reproduction of these materials, by any means, including but not limited
5 to, storage in a retrieval system, transmission, printing, memorization, or distribution
6 is strictly prohibited." By participating in the NAVLE Self-Assessment Form 2,
7 participants acknowledge that they have read, understood and agree to be bound by
8 the ICVA's Terms. See **Exhibit A** at 1.

9 87. Defendant Bruyette purchased access to the NAVLE Self-Assessment
10 Form 2. See **Exhibit F** at 1.

11 88. The ICVA's Terms were displayed to Defendant Bruyette before he
12 purchased access.

13 89. Defendant Bruyette agreed to the ICVA's Terms by proceeding with the
14 purchase and navigating through the NAVLE Self-Assessment Form 2.

15 90. Defendant Bruyette reproduced content from the NAVLE Self-
16 Assessment Form 2 in violation of the ICVA's Terms.

17 91. Defendant Bruyette caused content from the NAVLE Self-Assessment
18 Form 2 to be stored in a retrieval system, transmitted, and/or distributed in violation
19 of the ICVA's Terms.

20 92. Defendant Bruyette's conduct constitutes a breach of the ICVA's
21 Terms.

22 93. Defendant Bruyette's conduct was willful and malicious.

23 94. On information and belief, Defendant Bruyette continues to reproduce
24 and distribute materials copied from Plaintiff without its permission.

25 95. As a result of Defendant Bruyette's breach, Plaintiff has suffered and
26 continues to suffer monetary and non-monetary injury and harm in an amount to be
27 proven at trial.

28

1 96. Moreover, as a result of Defendant Bruyette's breach, Plaintiff has been
 2 injured and faces irreparable harm. Plaintiff is threatened with losing its competitive
 3 advantage and goodwill that would be impossible to fully compensate unless
 4 Defendants are enjoined and restrained by order of this Court.

5 **Second Cause of Action (All Defendants)**

6 **Direct, Contributory, and Vicarious Copyright Infringement**

7 **Under 17 U.S.C. § 501, et seq.**

8 97. Plaintiff re-alleges and incorporates all of the allegations set forth in the
 9 preceding paragraphs as if fully set forth herein.

10 98. Plaintiff owns dozens of copyright registrations covering the NAVLE
 11 and the NAVLE Self-Assessment works. *See generally* **Exhibit C**.

12 99. Plaintiff owns Copyright Registration No. TX0008913420, entitled,
 13 *International Council for Veterinary Assessment NAVLE Self-Assessment Form 2*,
 14 which was registered on November 13, 2020. *See* **Exhibit D** at 2.

15 100. The certificate of registration for the NAVLE Self-Assessment Form 2
 16 is *prima facie* evidence of the validity of the ICVA's rights in and to the work.

17 101. Defendant Bruyette had actual knowledge of the ICVA's copyright. He
 18 and/or one of his confederates nonetheless secretly, illicitly, willfully, and knowingly
 19 made at least one reproduction of the ICVA's protected work in violation of the
 20 Copyright Act by taking screen captures or photographs of it on or around June 14,
 21 2023. *See* **Exhibit F** at 2. That is an act of willful and deliberate copyright
 22 infringement in violation of 17 U.S.C. § 501 *et seq.*

23 102. On information and belief, as alleged above, all of the other Defendants
 24 either participated in these acts of infringement, exercised control over Defendant
 25 Bruyette, had actual or constructive knowledge of the infringement, materially
 26 contributed to the infringement, or otherwise benefited from these acts of
 27 infringement. As a result, all of the Defendants are contributorily, vicariously, and
 28 jointly and severally liable for the acts of infringement.

1 103. As a result of Defendants' infringement, Plaintiff has suffered and
2 continues to suffer monetary and non-monetary injury and harm in an amount to be
3 proven at trial.

4 104. As a result of Defendants' infringement, Plaintiff is entitled to statutory
5 damages under 17 U.S.C. § 504 and an award of attorneys' fees and costs.

6 105. Moreover, as a result of Defendants' infringement, Plaintiff has been
7 injured and faces irreparable harm. Plaintiff is threatened with losing its competitive
8 advantage and goodwill that would be impossible to fully compensate unless
9 Defendants are enjoined and restrained by order of this Court.

10 106. Defendants' conduct has already damaged Plaintiff and any further
11 reproduction or distribution of NAVLE Self-Assessment Form 2 content will
12 irreparably harm Plaintiff. Defendants' conduct has caused Plaintiff to lose control
13 over its protected work. If Defendants were to further reproduce or distribute
14 NAVLE Self-Assessment Form 2 content, Plaintiff would have no control over the
15 format in which it is distributed and the distributed work would not be subject to the
16 ICVA's strict Terms, Conditions, and Disclaimers, which presently protect the work
17 by providing notice that it is protected by copyright and prohibiting any unauthorized
18 reproduction or distribution of NAVLE Self-Assessment Form 2 content. *See*
19 **Exhibit A** at 1.

20 107. Defendants' reproduction and distribution of the NAVLE Self-
21 Assessment Form 2 content is also likely to cause significant reputational harm to
22 Plaintiff and diminish its standing in the marketplace.

23 **VIII. PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff demands judgment and relief against Defendants and
25 respectfully requests that this Court:

26 1. Permanently enjoin, restrain, and forbid Defendants, their officers,
27 agents, servants, employees, attorneys, successors or assigns, and all persons or
28 entities acting in concert or participation with any of them from:

- 1 (i) accessing, downloading or otherwise acquiring materials from the
2 ICVA;
3 (ii) imitating, copying, reproducing, distributing, disseminating, offering
4 for sale, or selling materials obtained from the ICVA; and
5 (iii) assisting, aiding, or abetting another person or business entity in
6 engaging or performing any of the activities enumerated in sub-
7 paragraphs (i)-(ii);

8 2. Direct Defendants to return, relinquish, or destroy any materials
9 obtained or derived from the ICVA and to remove from any location under their
10 control any materials obtained or derived from the ICVA;

11 3. Direct Defendants to account to the ICVA for its profits arising from the
12 conduct complained of herein;

13 4. Award Plaintiff a money judgment for breach of contract, grant
14 compensatory relief for Defendants' willful copyright infringement, the precise
15 amount to be proven at trial, including either actual damages or statutory damages;

16 5. Award the ICVA its reasonable attorneys' fees and taxable costs and
17 disbursements of this action, pursuant to the Copyright Act, and the inherent
18 authority of the Court;

19 6. Award the ICVA prejudgment interest at the rate provided for under
20 applicable law; and

21 7. Award the ICVA such other and further relief as the Court deems just
22 and equitable.

23 **IX. JURY DEMAND**

24 The ICVA hereby demands that all claims or causes of action raised in this
25 Complaint be tried to a jury to the fullest extent possible under the United States
26 Constitution.

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2 Dated: April 9, 2024

DORSEY & WHITNEY LLP

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VERIFICATION

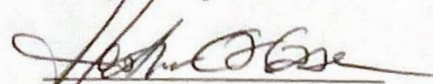
I, Heather Case, declare as follows:

1. I am Chief Executive Officer of the International Council for Veterinary Assessment (the "ICVA"). I have reviewed the foregoing Verified Complaint and verify that the statements made therein are true and correct to the best of my knowledge, information, and belief.

2. I have personal knowledge of the factual matters set forth in the Verified Complaint, including the ICVA's business and conduct, the ICVA's copyrights, the North American Veterinary Licensing Examination ("NAVLE"), the NAVLE Self-Assessments, and the harm caused to the ICVA by Defendants' conduct and if called to testify, I would testify as to those factual matters.

3. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing factual statements in the Verified Complaint are true and correct.

Executed on April 8, 2024 in Huntley, Illinois.


Heather Case